



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Trenton D. Weeks, D.C.

Respondent Name

Liberty Mutual Fire Insurance Company

MFDR Tracking Number

M4-17-1013-01

Carrier's Austin Representative

Box Number 1

MFDR Date Received

December 9, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On 12/11/2015 I performed an evaluation to determine maximum medical improvement and impairment of the above named claimant. I performed this examination at the request of the injured employee and the treating doctor."

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The charges of 12/11/15 were denied due to the claim being under investigation. This was an IME to determine MMI and was not requested by the carrier."

Response Submitted by: Liberty Mutual Insurance

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 11, 2015	Referral Doctor Examination to Determine Maximum Medical Improvement	\$350.00	\$350.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §130.1 sets out the requirements for certification of maximum medical improvement and impairment rating.
3. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services provided from March 1, 2008 until September 1, 2016.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - X607 – Claim under investigation.

Issues

1. Is Liberty Mutual Fire Insurance Company's reason for denial of payment supported?
2. Is Trenton D. Weeks, D.C. entitled to reimbursement for the disputed service?

Findings

1. Trenton D. Weeks, D.C. is seeking \$350.00 for an examination referred by the treating doctor to determine if the injured employee was at maximum medical improvement performed on December 11, 2015. Liberty Mutual Fire Insurance Company (Liberty Mutual) denied reimbursement with claim adjustment reason code X607 – "CLAIM UNDER INVESTIGATION." Dr. Weeks asserted in his position statement that Liberty Mutual was "very vague and non-specific as to the reason of denial."

To support its argument, Liberty Mutual stated in its position statement that the service was "an IME to determine MMI and was not requested by the carrier." 28 Texas Administrative Code §130.1(a)(1)(A) states that "the treating doctor (or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor" is authorized to certify maximum medical improvement and impairment rating. Therefore, Liberty Mutual's statement does not support the denial reason, as an examination to determine maximum medical improvement is not required to be requested by the insurance carrier.

The division concludes that Liberty Mutual failed to articulate its meaning regarding use of the denial "CLAIM UNDER INVESTIGATION" and how this resulted in non-payment of the service in question. Denial for this reason is not supported.

2. Per 28 Texas Administrative Code §134.204(j)(2)(A),

If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection. Modifier "NM" shall be added.

Paragraph (3) states, "The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation supports that the requestor performed an evaluation of MMI and found that the injured employee was not at MMI. Therefore, the MAR for this examination is \$350.00. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$350.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$350.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	February 9, 2017 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.